



BUSINESS COUNCIL
OF CO-OPERATIVES AND MUTUALS

BCCM Federal Budget Submission 2019/20

Table of Contents

1	Executive Summary	3
2	The importance of the CME sector in Australia.....	3
	2.1 Competition and choice for consumers is enhanced by the presence of CMEs	4
	2.2 CMEs bring diversity and stability to the economy.....	4
3	Co-operatives' Regulatory Regime	5
4	The importance of consistent regulation	5
5	Recommendations.....	6
	5.1 Audit of eligibility for Government programs	6
	5.2 Inclusion in Modernising Business Registers and Director Identification Number projects....	7
	5.3 Information available on business websites	7
6	Conclusion	8
7	Appendix: BCCM Members.....	9

The Business Council of Co-operatives and Mutuals (BCCM) welcomes the opportunity to make a submission to provide views regarding priorities for the 2019-20 Budget.

Firms owned by their members operate in every sector of the economy. This overlooked part of the economy provides essential goods and services for eight in ten Australians who are members of at least one co-operative or mutually owned business.¹

Communities are increasingly turning to self-reliance and entrepreneurial responses to meet their local needs. Co-operative and mutual businesses offer self-help solutions to strengthen the economy and provide sustainable employment for Australians. Consequently, co-operatives and mutuals are agents of economic growth and prosperity. Improving the operating environment for co-operatives and mutuals will have a positive budgetary impact over time.

The 2016 Senate Economics References Inquiry into the size, scope, and contribution of the co-operative and mutual sector (the Senate Inquiry) recommended Government improve the operating environment for co-operative and mutual businesses to enable them to compete on an even playing field with listed firms.

The sector recognises the important progress made in implementing recommendations of the Senate inquiry including measures to improve access to capital for growth and innovation. While several of the recommendations have been actioned, this submission proposes some further, simple actions of Government aimed at supporting this important business sector to operate effectively within the Australian economy.

About the BCCM

Formed in 2013 following the United Nations International Year of Co-operatives, the Business Council of Co-operatives and Mutuals (BCCM) is the peak body for Australian co-operatives, mutuals and member-owned enterprises. The BCCM represents a diverse range of enterprises operating in sectors including agriculture, finance and banking, insurance, motoring services, health services, aged care, disability employment, education, indigenous services, social housing and retail.

The BCCM advocates for recognition of the sector and for measures that create a level playing field between co-operatives and other businesses, including implementation of the recommendations of the Senate Economics References Committee report into Cooperative, mutual and member-owned firms, and implementation of the Hammond Review recommendations to improve access to capital for CMEs.

¹ "Who knew Australians were so co-operative? The size and scope of mutually owned co-ops in Australia", Institute Paper 10, The Australia Institute, Dennis, R. & Baker, D (2012)

1 Executive Summary

This submission notes that co-operative and mutual enterprises (CMEs) contribute strongly to the national economy. CMEs are self-help organisations that bring diversity, competitive forces and consumer choice to markets. They address market failure by enabling smaller market participants, enterprises or individuals, to compete in markets that favour larger entrants. CMEs support regional communities, as well as particular interest groups in the community.

They create diversity in business which will act as a counterbalance to mitigate systemic risk to the economy. In this era of accountability, co-operatives and mutuals help rebuild and maintain trust in business.

Key recommendations are:

1. Funding for a full government audit of grant programs to ensure eligibility for co-operatives. This would directly address recommendations 10 and 11 of the Senate Inquiry.
2. Expansion of the modernising business registers program to include state and territory registered co-operative businesses.
3. Funding for upgrading and streamlining the information available on websites hosted by state registries (in partnership with state and territory governments). This would directly address Senate Inquiry Recommendation 6.

2 The importance of the CME sector in Australia

Co-operative and mutual enterprises (CMEs) are member-based businesses owned by or on behalf of their customers, employees, a group of like-minded producers or a combination of these. The purpose of these firms is different from other businesses. They exist to serve their members rather than to reward capital investors and they establish business strategies that take a longer-term view.

CMEs have been a part of the fabric of Australian life and business since the mid-1800s. More than 160,000 Australian businesses, including many small and family-owned businesses, enhance their efficiency and competitiveness through membership of an enterprise co-operative. Enterprise co-operatives add diversity and business model competition to markets, offering business consumers more choice.

The CME sector includes both not for profit and for profit entities. They run lean and efficient business operations for their members and their communities.

Co-operatives and mutuals are regulated under two regimes. State and territory regulated co-operatives are incorporated and regulated under the harmonised Co-operatives National Law as enacted in each state and territory (with the exception of Queensland). Mutuals and some co-operatives are regulated under the Federal Corporations Act.

CMEs have important characteristics that distinguish them from listed companies. They are a

self-help response to the mutually identified needs of individuals or organisations. They are driven to meet both financial and social goals.

Both the context of their formation and their dual purpose leads to financial objectives of long term sustainability and a governance culture focused on best outcomes for members. CMEs operate in all sectors of the Australian economy, including in agriculture, banking and finance, insurance, retail, manufacturing, human services, education, housing, health, aged care and childcare and motoring services. CMEs have a long history in Australia going back to the second half of the nineteenth century.

The top 100 CMEs have turnover of approximately \$36 billion (excluding the turnover of member-owned superannuation funds). There are more than 13.5 million members of CMEs, more than double the number of ASX shareholders (6.68 million).

79 per cent of Australians are members of co-operative or mutually owned organisations.

2.1 Competition and choice for consumers is enhanced by the presence of CMEs

Consumer surveys demonstrate that CMEs are perceived as having strong local links to community, that they operate equitably, are trustworthy and customer focused.

Co-operatives enable businesses in different parts of a supply chain to jointly purchase programs and services such as access to marketing, manufacturing and export facilities, improving value for money and access to expert advice. Examples are Independent Liquor Group, a wholesale and marketing co-operative owned by independent bottle shop operators, or Capricorn Society, Australia's largest automotive parts buyer, providing services to some 19,000 automotive businesses across Australia and New Zealand.

2.2 CMEs bring diversity and stability to the economy

The CME sector is important to the prosperity of Australia because it helps to create a diverse economy that works in the interest of the widest number of people by sharing power in, and the rewards of, business.

They provide a way of marshalling the social and economic contributions of people, who may not be able or inclined to strike out on their own. In doing so they are innovators and enhance the diversity of market offerings.

They play a vital role in supporting the sustainability of small and medium enterprises giving Australia's business entrepreneurs the opportunity to compete in a global market that favours larger entrants.

The global financial crisis exposed the risk to leading economies of having markets dominated by similarly structured businesses that were focused on the same short to medium term economic outcomes.²

² "Resilience in a downturn: The power of financial cooperatives," Birchall, J (2013)

CMEs differ because they do not need to respond to short-term stock market pressures, enabling them to adopt longer-term business strategies. Their continuing presence in areas such as financial services, health insurance, retail and liquor supplies, agriculture and manufacturing ensures that there is diversity and independent operators in otherwise highly concentrated markets.

3 Co-operatives' Regulatory Regime

While mutual businesses are regulated under the federal Corporations Act, most co-operative businesses are registered under state or territory legislation: the harmonised Co-operatives National Law. While most states and territories have enacted the uniform legislation, Queensland has failed to do so. Many co-operative businesses operate on a national level, and inconsistent regulation, along with a low level of understanding of the business model amongst some federal as well as state and territory regulators, has put co-operative businesses at significant disadvantage.

These disadvantages include:

- A lack of staff adequately trained in the co-operative business model to answer queries from members of the business community.
- Ineligibility for government grant rounds. This leads to organisations having to go through multiple channels to confirm eligibility or otherwise, and community based organisations deciding not to apply for funding for projects they would be eligible for.
- Failure to include the model in business simplification or red tape reduction initiatives such as the Modernising Business Registers program. As a result, an entire business sector will be excluded from a project designed to make doing business in Australia easier and more efficient.
- Lack of information available about the business model on government websites for people looking to form a co-operative.
- No single registry for co-operatives, resulting in fragmented data collection, paper-based processing, increased processing times, and a lack of information being made available to the public.

4 The importance of consistent regulation

Co-operative and mutual enterprises provide significant opportunities for Australian individuals and small businesses. Co-operative businesses operate in the same competitive markets as companies across Australia, in a number of sectors. With approximately 2,000 registered co-operatives, the sector is a significant contributor to the Australian economy. Co-operatives also provide vital services to over 160,000 businesses who are their members. They are direct employers and facilitate and support the employment of many other Australians through their supply chains and member-owners.

As with all business sectors it is important that co-operatives are regulated consistently and effectively. That co-operatives are often overlooked in federal-state regulatory initiatives has been recognised in the Senate Economics References Committee 2016 inquiry into the sector

and the Harper Competition Review and, more recently at the Federal Parliamentary Inquiry into impediments to business investment. IT infrastructure for state and territory registries is outdated and does not permit online lodgement of details, and for many jurisdictions is still paper-based. Users of search facilities for co-operatives face the initial difficulty of identifying which state or territory register is relevant and then delays in receiving responses to search requests.

A public register for co-operatives is maintained by each State and Territory. The public register is required to hold registration details, details of directors and officers and information about lodgements such as annual returns.

These public registers do not adequately serve the needs of the co-operative sector or of those persons or businesses wishing to trade with co-operatives for the following reasons:

- a. Idiosyncratic registration numbering systems in each jurisdiction have no internal check digit like an ACN and bear no resemblance or relationship to the co-operative's ABN;
- b. Only Victoria permits a free search of registered co-operatives in that State. New South Wales and Western Australia publish an undated list of co-operatives;
- c. No State or Territory publishes statistics of numbers of registered co-operatives, new formations or de-registrations to inform policy or legislative review;
- d. The ABN register incorrectly records many co-operatives as 'other incorporated entity' or 'unincorporated entity';
- e. Searching for extracts or copies of publicly held documents reveals a system typical of registry services from the last century. There are delays of 3 or 5 days, in some jurisdictions the request can only be lodged by post and it is apparent that most administration is still paper based.

5 Recommendations

5.1 Audit of eligibility for Government programs

The BCCM is aware of the limit of legislative power in the Commonwealth to make laws with respect to State and Territory entities and that the findings in *Williams v Commonwealth of Australia*³ may render co-operative businesses registered at state level ineligible for some Federal Government grant programs. Often when co-operatives otherwise should be eligible for grants, misinformation at departmental level leads to advice that they are not eligible.

To ensure parity of treatment of all business models across the economy, the Government should conduct a formal audit of all grant programs to clarify eligibility for co-operative businesses. The Government should also introduce a process to ensure clarity of eligibility in future grant rounds, and provide adequate training to relevant staff handling inquiries.

This measure would directly address recommendations 10 and 11 of the Senate Inquiry.

³ [2012] HCA 23

5.2 Inclusion in Modernising Business Registers and Director Identification Number projects

Modernising Business Registers

The transfer of regulatory responsibility for companies to the Commonwealth, under the Corporations Act 2001, impacted the co-operative and mutual sector. Under Commonwealth legislation, the company model became the dominant business model in Australia, whilst knowledge and professional expertise in respect of co-operative and mutual enterprises (CMEs) dwindled. Combining the many Commonwealth business registers to achieve a single, modern and efficient registry and data system is likely to further marginalise co-operatives unless they are included.

The BCCM is supportive of efforts to modernise business registries. A single national business register will provide strong data integrity that will serve the needs of a modern economy and the ability for businesses to register, report and search a single national database will reduce regulatory duplicity, and consequently reduce regulatory cost to both government and business. The availability of data that is sensitive to different business model characteristics will provide excellent information for regulatory reform and adaptation as the economy grows.

It is important that funding be available to ensure that the co-operative business sector is included in this program.

Director Identification Numbers

The Co-operatives National Law (CNL) provides for disqualification of persons as directors in similar circumstances to provisions for disqualification under the Corporations Act. Yet, there is no formal link between the register of disqualified directors maintained by ASIC and disqualification provisions for directors under the CNL. Extending a system for Director Identification Numbers (DIN) would ensure that persons seeking election as a director of a co-operative were not already disqualified or otherwise involved in failed companies.

5.3 Information available on business websites

In many instances State and Territory regulatory affairs websites, along with business advice websites funded by the Federal Government, do not contain information on the co-operative business structure. The BCCM has been working with state registries to address this issue but there is more work to be done.

For people interested in forming a social purpose organisation, the lack of information regarding the co-operative structure can cause difficulty in making an informed choice between the three basic corporate structures available in Australia: a co-operative, an incorporated association and a company.

Governments should ensure that the public are provided with sufficient and equal levels of information on all business models, to enable them to make an informed decision and to address the issue of balance and diversity of business structures within the economy.

While the State and Territory business websites are managed by those governments, the Federal Government could co-ordinate through COAG an updating of the information on these

sites to streamline the information available.

The budgetary impact of this measure would be minimal since there are best practice examples available on some State websites that could be replicated uniformly across State and Federal websites. Further, on behalf of the sector the BCCM has developed regulatory technology and business resources designed to help co-operatives' formation; this technology and information is available to State and Federal Governments to link to or for publication on websites, reducing the need to develop resources from scratch.

Action on this issue would address recommendation 6 of the Senate Inquiry.

6 Conclusion

BCCM supports the Federal Government's proposals to reduce red tape and streamline business interaction with Government. The measures proposed in this submission would go some way to addressing the business disadvantages faced by co-operatives. It is therefore important to ensure that funding is allocated to bring co-operatives within the business modernisation program of the Federal Government to ensure that all corporate structures available to Australian citizens and Australian businesses receive parity of treatment.

7 Appendix: BCCM Members

Almondco Australia
APS Benefits Group
Australian Military Bank
Australian Scholarships Group
Australian Unity
Bank Australia
Bank of us
Bank Vic
Bankfirst
Beyond Bank
Capricorn Society
CareSuper
Co-operative Bulk Handling (CBH)
Common Equity Housing Limited (CEHL)
Common Equity NSW
Community Co-operative Store (Barossa)
Community First Credit Union
Credit Union Australia (CUA)
Defence Bank
Employers Mutual Limited (EML)
Endeavour Mutual Bank
Geraldton Fishermen's Co-operative
Greater Bank
HCF
Heritage Bank
IMB Bank
MDA National
National Health Co-op
NRMA
Northern Co-operative Meat Company (NCCMC)
P&N Bank
People's Choice Credit Union
Police Bank

Qudos Bank
Queensland Country Credit Union
RACQ
RAC (WA)
Regional Australia Bank
RAA
RACT
rt Health Fund
StateCover Mutual
Teachers Mutual Bank
Travellers Choice
Unimutual
Yenda Producers Co-operative